

TOWER OF SHAME

BACKGROUND:

At the close of World War II, the citizens of Tulare began working to raise the funds to build their own hospital.

The hospital had been a topic of discussion throughout the community since 1937. Several attempts to pass bond measures failed. Then in January 1946, two consecutive bonds were passed and, with Federal government aid, the Tulare Local Healthcare District was formed. The first hospital board was appointed by the County Board of Supervisors.

The construction of the new \$1.1 Million, 86-bed hospital began on May 23, 1949 with a groundbreaking ceremony. Less than two years later, on February 18, 1951, the dedication ceremony for the much-anticipated Tulare District Hospital (TDH) took place.

In December 1989, the hospital broke ground on a \$21 Million expansion and renovation project. This project was completed in 1993, which included remodeled patient rooms, lobby, and an expanded ICU and a new pediatric unit.

In 2009, what had been known as TDH changed its name to Tulare Regional Medical Center (TRMC). While remaining a General Acute Care Facility licensed for 112 inpatient beds, services are designed to meet the continuum of healthcare needs. Tulare Local Healthcare District, DBA TRMC is accredited by the Joint Commission on Accreditation of Healthcare Organizations and DNV Healthcare, Inc. Mineral King Toxicology Laboratory, a division of TRMC, is one of only four Toxicology laboratories in California, accredited by the College of American Pathologists.

The issuance of general obligation bonds in an aggregate amount not to exceed \$85 Million by the Tulare Local Health Care District (TLHCD) was authorized at an election of the registered voters of the TLHCD held on September 13, 2005. This election garnered approximately 83% of the persons voting on the measure. Pursuant to the laws of the State of California and a resolution of the TLHCD, the TLHCD issued an initial series of such bonds in the amount of \$15 Million on August 21, 2007. The TLHCD issued general obligation bonds in two final series authorized in the aggregate amount of \$70 Million. Proceeds of the Bonds have been used to pay costs related to the construction and equipping of an expansion and renovation of the District's Hospital located on the southwest corner of Cherry Street and Merritt Avenue in the City of Tulare.

The Bonds represent the general obligation of the TLHCD. The TLHCD is empowered and obligated to cause to be levied ad valorem (property) taxes, without limitation of rate or amount, upon all property within the TLHCD subject to taxation by the TLHCD (except certain personal property which is taxable at limited rates), for the payment of interest on and principal of the Bonds when due. Tulare County will collect all ad valorem taxes due to the TLHCD, and pursuant to agreement will disburse them to the Paying Agent to be applied to the payment of principal of and interest on the Bonds.

Following the issuance of the initial series of bonds in 2007, TLHCD embarked upon Phase I of a facility Master Plan. Phase I includes the construction of a 107,000 square foot tower connecting to the southern wall of the existing hospital building. This tower was designed to include a full basement and house an 11,000 square foot, 24-bed emergency department; a diagnostic department and associated equipment; a 16-bed obstetrics unit; 4 surgery suites; and 27 new private patient rooms.

Subsequent phases of the Master Plan are still conceptual. Phase II of the Master Plan involves the construction of a second tower located to the west of the Phase I tower. Phase II would include a new Central Plant. Completion of Phase II would allow demolition of most of the existing hospital facility. The main Hospital entrance would be reoriented at that time. As this report is written, the design, budget, funding plans and construction time lines for Phase II have not been completed.

REASON FOR INVESTIGATION:

The Tulare County Grand Jury received a citizen complaint alleging willful failure on the part of the TLHCD Board of Directors to disclose details surrounding the expenditure of proceeds from the bonds. Additionally, it alleged gross malfeasance in the management of the construction of Phase 1 and gave impetus to this investigation.

METHOD OF INVESTIGATION:

In response to the concerned citizen's complaint about the TLHCD's issuance and expenditure of \$85 Million dollars in tower construction bonds, the Grand Jury investigated expenses related to the Bond Funds. The Grand Jury reviewed numerous documents; including financial statements, District Board Minutes, construction and expense data. The Grand Jury interviewed hospital representatives and district residents.

FACTS

1. Prior to the initial (2005) bond election, a Bond Oversight Committee was appointed, ostensibly to provide independent oversight of the expenditure of bond funds as well as the management of projects to which bond funds were to be allocated.
2. The Bond Oversight Committee repeatedly requested detailed financial information which was never provided.
3. As of February 1, 2016, the Phase I project, which began with the issuance of bonds in August 2007, has not been completed and its corresponding structures are vacant.
4. Prior to the initiation of Phase I, members of the TLHCD Board of Directors were made aware of the fact that estimates of the total cost of the project exceeded \$120 Million and that proceeds from an \$85 Million bond issue would be insufficient to complete the project.

5. During the period of time from January of 2010 through December of 2015, there is an absence of detailed disclosure of financial aspects of the Tower I project in TLHCD board minutes. Moreover, the minimal amount that was disclosed was found to be inaccurate.
6. TLHCD often times failed to disclose pertinent information (to which taxpayers are entitled) related to the financial aspects of the Phase I Project.
7. During the period of time from 2008 to 2014, TLHCD Directors hired; fired; hired again and fired again the same individual to serve in the capacity of Chief Executive Officer of TRMC with attendant severance packages ultimately costing in the hundreds of thousands of dollars.
8. A significant delay in construction of Phase I occurred due to the delamination of the concrete poured by the contractor on the upper floors of Tower I. This in turn, led to litigation which resulted in TLHCD being directed by the court to settle with the original contractor at an expense of \$7.9 Million to TLHCD taxpayers.
9. TLHCD did not engage the services of an **independent** construction manager until February 26, 2013, well over four years after construction on the Phase I project began.
10. As of November 13, 2013, the Phase I Project had in excess of seven hundred (700) change orders and over five thousand (5000) "RFI's" (requests for information) recorded, each of which constitutes an expense over and above the contractor's original estimate of total cost of construction. In this case, the additional costs totaled \$17,511,869.

FINDINGS:

- F1. The TLHCD routinely withheld pertinent information and financial data from the Bond Oversight Committee, thus rendering the Committee incapable of performing its oversight function.
- F2. The Bond Oversight Committee failed to exercise due diligence in following up on requests for detailed financial information which was necessary for the independent oversight of the expenditure of bond funds.
- F3. The 2005 voter authorized \$85 Million in bonds has been completely expended. At the time this report was drafted, TLHCD had only an uncompleted and non-functional structure to show for it.
- F4. It appears that TLHCD either intentionally or unintentionally failed to comprehend the issue of the cost differential between the \$85 Million in bond authorization and the total project cost estimated to be well in excess of \$100 Million. It further appears that TLHCD attempted to justify their position by unsupported estimates of reserves and projection of future revenues.

- F5. Strict and complex statutes regarding public disclosure of information pertaining to the expenditure of funds proceeding from the issuance of bonds, appear to have been routinely circumvented by the TLHCD Board of Directors.
- F6. Minutes of TLHCD meetings from January 2010 through December of 2015 fail to disclose the dire situation into which the Phase I project had devolved, thus leaving TLHCD taxpayers without direct access to information to which they were entitled.
- F7. The turmoil surrounding the personnel turnover at the top of the TLHCD management structure served to distract Board Members' attention from the Phase I Project, thus leading to additional delays and severance agreements in the hundreds of thousands of dollars.
- F8. The court ordered settlement represents 9.29 percent of the \$85 Million in proceeds from the sale of bonds and required funds needed to complete Phase I to be allocated to a purpose other than construction.

CONCLUSION:

The Tulare County Grand Jury undertook investigation of this complaint with the goal of uncovering truths and answering questions which had been withheld from the public for nearly a decade (from commencement of construction of the Phase I Tower in 2005, through the end of 2015). Seven months of intense investigation has brought the Grand Jury to the conclusion that millions of dollars in public funds have not been accounted for by the TLHCD. Moreover, the preponderance of evidence presented to the Grand Jury indicates that over the same period of time, the TLHCD withheld information pertaining to the expenditure of public funds to which the District's constituents were entitled.

RECOMMENDATIONS:

- R1. That the TLHCD Board of Directors, without delay, undergo training in aspects of governmental transparency and disclosure requirements pertaining to the expenditure of public funds.
- R2. That the TLHCD Board of Directors, without delay, release to the general public a full disclosure of the manner in which proceeds from the sale of \$85 Million in bonds were expended from September of 2007 through December of 2015.
- R3. That the current Bond Oversight Committee be disbanded and a new Committee seated, fully enabled to disclose the actual/present financial circumstances surrounding the Phase I Project.

REQUIRED RESPONSES:

- 1. Tulare Local Health Care District Board of Directors

Disclaimer

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).